

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

# RUDY CARMONA

*Plaintiff,*

**V.**

# KILGORE INDUSTRIES

***Defendant.***

**§ 87(2)(b)**

**CIVIL ACTION NO. 4:21-cv-001473**

## PLAINTIFF'S MOTION FOR LEAVE TO FILE A LATE PRE-TRIAL ORDER

**NOW COMES**, Plaintiff Rudy Carmona (hereinafter “Carmona”) to file this Opposed Motion for Leave to File a Late Pre-Trial Order, the **Joint** Pre-Trial Order was due to file on August 8, 2022.

On April 8, 2022, Plaintiff sent Defendant's counsel a deficiency letter regarding overdue discovery (due on April 15). During this time, Defendant requested to attempt to settle or mediate, and failed to comply with the deficiency letter, ultimately failing to produce documents and evidence material to this case prior to the filing of the Joint Pre-Trial Order.

On August 8, 2022, counsel for Defendant produced late discovery; and Plaintiff was not able to go through and finalize exhibits on the same day the Joint Pre-Trial Order was due, given that Defendant produced new documents for the first time at this stage in the case. Plaintiff files this Motion solely to seek leave to file a Late Pre-Trial Order and would show onto the court as follows:

1. Plaintiff sent Defendant his request for Discovery on January 13<sup>th</sup>, 2022.

2. Defendant sent their incomplete responses to Plaintiff's First Request for Discovery on March 31<sup>st</sup>, 2022.
3. Plaintiff sent Defendant a notice on April 8<sup>th</sup>, 2022, regarding their deficiencies in Defendant's responses to Plaintiff's first set of interrogatories.
4. Plaintiff gave Defendant deadline of April 15<sup>th</sup>, 2022, to produce responses and production request.
5. Defendant produced discovery to Plaintiff on August 8<sup>th</sup>, 2022.
6. Plaintiff's delay in filing this Pre-Trial Order was not intentional or the result of Conscious indifference, but the result of awaiting discovery, which was due on April 15<sup>th</sup>, 2022, and allowing the late response will occasion no undue delay or otherwise injure Defendant.
7. Plaintiff has conferred with Defendant regarding this motion and the filing of The Pre-Trial Order, and they are Opposed to the relief requested.

**CONCLUSION AND PRAYER**

Plaintiff respectfully requests that the Court grant his leave to file Plaintiff's Pre-Trial Order that Plaintiff filed. Upon review and Plaintiff's Motion for Leave, if needed, Plaintiff prays for this Court to sign and enter an Order in Plaintiff's favor.

[SIGNATURE BLOCK TO FOLLOW]

Respectfully submitted,



A handwritten signature in black ink that reads "Eddie Hodges Jr." in a cursive script.

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**Eddie Hodges Jr.**

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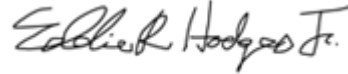
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Facsimile: (713) 742-0951

**ATTORNEYS FOR PLAINTIFFS**

**CERTIFICATE OF SERVICE**

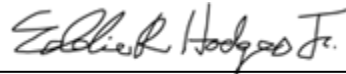
A true and correct copy of the foregoing was served on Defendant via the Court's CM/ECF system on August 9<sup>th</sup>, 2022.



Eddie Hodges, Jr.

**CERTIFICATE OF CONFERENCE**

Plaintiff's counsel conferred with counsel for Defendant on the foregoing motion. Counsel on August 9<sup>th</sup>, 2022, for Defendant, responded they are opposed to the relief sought in this motion.



Eddie Hodges, Jr.